

## BILL ANALYSIS

Senate Research Center

H.B. 1926  
By: Hunter, T.  
State Affairs  
8-5-93  
Enrolled

### BACKGROUND

Currently, Article 320d, V.T.C.S., governs the referral of lawyer services. The statute does not require certification for the operation of a lawyer referral service, or provide for any entity to serve as a regulatory body.

### PURPOSE

As enrolled, H.B. 1926 amends Article 320d, V.T.C.S., in its entirety to create the Texas Lawyer Referral Services Quality Assurance Act to regulate lawyer referral services.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to any state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 320d, V.T.C.S., as follows:

#### Art. 320d. LAWYER REFERRAL SERVICES

Sec. 1. SHORT TITLE. Provides the title of this article as the "Texas Lawyer Referral Service Quality Assurance Act."

Sec. 2. PURPOSE; PUBLIC POLICY. (a) Sets forth the findings of the legislature.

(b) Sets forth public policy relating to lawyer referral services.

Sec. 3. DEFINITIONS. Defines "entity," "lawyer referral service," and "state bar."

Sec. 4. CERTIFICATION REQUIRED; FEES; RENEWAL. (a) Requires an entity to be certified by the state bar as provided by this article to operate a lawyer referral service in this state.

(b) Authorizes the state bar to adopt reasonable fees for the issuance and renewal of a certificate under this article. Requires a fee adopted under this subsection to be in an amount sufficient to cover the costs of administering this article.

(c) Provides that a certificate under this section is valid for one year from the date issued and may be annually renewed on the payment of the required renewal fee.

Sec. 5. CERTIFICATION REQUIREMENTS. (a) Requires an entity to meet certain specifications to be certified under this article.

(b) Requires an applicant for certification or renewal of a certification to provide the state bar with certain information.

Sec. 6. LAWYER PARTICIPATION. Sets forth who may participate in the lawyer referral service.

Sec. 7. COSTS AND FEES FOR LAWYERS AND REFERRAL SERVICES. (a) Prohibits a lawyer's charge to a potential client from exceeding the total costs that the

client would be required to pay if a referral service had not referred the client.

(b) Prohibits the combined charges for a potential client by both the lawyer and the referral service from exceeding a certain amount at the initial office visit with the lawyer.

(c) Provides that an agreement between a lawyer and a referral service to eliminate or restrict the fee for the first 30 minutes of an initial office visit with the lawyer is in the public interest and does not violate the Texas Free Enterprise and Antitrust Act.

(d) Requires a fee permitted under Subsection (b) to be dedicated to paying the reasonable operating expenses of the referral service and to pay for public service programs including pro bono publico legal programs.

**Sec. 8. INSURANCE REQUIREMENT.** Authorizes a lawyer referral service to require a member, as a condition of membership, to obtain a policy of errors and omissions insurance, or require other proof of financial responsibility in an amount to be determined by the lawyer referral service.

**Sec. 9. SUBJECT MATTER PANELS.** (a) Requires a lawyer referral service to establish specific subject matter panels.

(b) Authorizes a lawyer referral service to establish certain other panels.

**Sec. 10. COMMENTS AND COMPLAINT PROCEDURES.** Requires a lawyer referral service to establish policies and procedures to determine client satisfaction with the services the referral service provides and to address client complaints.

**Sec. 11. SUSPENSION AND REMOVAL OF LAWYERS AND FIRMS.** (a) Requires a lawyer referral service to establish written policies and procedures to suspend or remove a lawyer or firm from the service's list of subscribers.

(b) Requires the policies and procedures established under this section to include the suspension and removal of a lawyer who fails to handle referred clients in a diligent and responsible manner.

**Sec. 12. NOTICE REQUIREMENTS.** Requires a lawyer referral service to include a certain statement in all advertising or other promotional efforts, and provides the language for the statement.

**Sec. 13. RULES; ENFORCEMENT.** (a) Requires the state bar to adopt reasonable rules subject to the approval of the supreme court to administer this article.

(b) Authorizes the state bar to enforce this article and the rules adopted under it.

**Sec. 14. INJUNCTION.** (a) Authorizes the state bar or a lawyer referral service certified under this article to seek to enjoin a violation of this article and recover costs and attorney's fees related to obtaining the injunction.

(b) Provides that bond or other security may not be required of the state bar or a lawyer referral service as a condition for the issuance of an injunction under this section.

Deletes the existing Article 320d.

**SECTION 2.** Effective date: September 1, 1993.

Provides that a lawyer referral service is not required to obtain a certification under this Act until on or after December 1, 1993.

**SECTION 3.** Emergency clause.